

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
February 28, 2006**

Place: Room 206  
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Conze, Forman, Spain, Kenny, Bigelow

STAFF ATTENDING: Ginsberg, Keating  
COURT RECORDER: Beler

At 8:00 P.M., Chairman Damanti read the first agenda item:

**PUBLIC HEARING**

**Coastal Site Plan Review #184-A, Flood Damage Prevention Application #195-A, Land Filling & Regrading Application #102-A, Friends of Goodwives River, 33 and 30 Goodwives River Road & 11 Queens Lane.** Proposing to repair the Upper Pond Dam, construct a fish ladder, remove approximately 9,000 cubic yards of sediment and restore aquatic and shoreline habitats of the Upper Pond and perform related site development activities within a regulated area. The subject area is located on the Goodwives River and: at the rear of 33 Goodwives River Road, 30 Goodwives River Road and 11 Queens Lane, in the R-1 Zone.

Mr. Richard Windels was present to discuss the application. He noted that they propose to dredge 9,000 cubic yards of material and rebuild the dam. There are now two sections of dam which have fallen apart. The Upper Pond dam will need to be repaired first. There was an EPC condition regarding hauling access. A Letter of Map Revision from FEMA was needed, and a response from Art Christian was provided for the record in this matter. Mr. Phil Moreschi of Fuss & O'Neill said that there was no need for a map change.

It was noted that a letter from Mr. Hart of Morley Lane was received and given to Mr. Windels prior to the hearing. Mr. Windels responded to the letter by noting that there was no work proposed for the Hart site and no impact to their property. Mr. Damanti then reviewed the concerns outlined in Mr. Hart's February 28, 2006 letter. Mr. Windels said that they will get a "sign off" from the new owners of 15 Morley Lane, the McLaughlins.

Mr. Windels explained that he must complete the fundraising, and needs DEP permission for a water diversion permit due to the dredging, and Army Corps 404 permit is also needed. He said that they have already completed several ponds up the River. It will be up to future property owners to restore the pond in the future. Mr. Moreschi explained the revised Hydraulic Analysis.

There were no further comments or questions from Commission members or the general public. Mr. Kenny made a motion to continue the public hearing to March 7, 2006 to allow more time for parties to comment on the submitted proposal. Mr. Conze seconded that motion, and the public hearing on this matter was then continued.

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At about 8:40 P.M., Mr. Damanti then read the next agenda item:

**Coastal Site Plan Review #204-A, Flood Damage Prevention Application #218-A, James & Susan Ramsey, 136 Pear Tree Point Road.** Proposing to construct a new swimming pool and spa with associated terrace and pool house and perform related site development activities within regulated areas. The subject property is located on the east side of Pear Tree Point Road, approximately 500 feet south of its intersection with Crane Road, and is shown on Assessor's Map #60 as Lots #38 & #39 and #40, in the R-1 Zone.

Mr. Kevin Huelster said that the pool is designed to comply with all flood zone regulation requirements. Mr. Ginsberg said that this application was referred to DEP, and John Gaucher of DEP had no comments. Mr. Edwin Lewis of the Darien Environmental Protection Commission (EPC) commented on the application on behalf of the EPC. Mr. Huelster said that silt fence repairs have been undertaken recently. Mr. Huelster said that they will follow the advice outlined in Mr. Lewis' memo.

There being no further comments or questions from Commission members or the general public, Mr. Bigelow made a motion to close the public hearing. Mrs. Forman seconded that motion, and the public hearing on this matter was then closed.

Mr. Damanti then read the next agenda item:

**Land Filling & Regrading Application #53-A (3), Darien High School Building Committee, 80 High School Lane.** Proposal for an amendment of the existing Special Permit to allow the periodic use of a portable recycling plant (crusher) to process existing material on-site. The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road, and is shown on Assessor's Map #9 as Lots #80 and #81, R-2 Zone.

Mr. Peter Maglathlin, Chairman of the Building Committee was present to discuss the application. He said that there is one final pile of rock to be crushed, and they will need to operate the crusher for a week. Mr. Ginsberg said that there were no complaints about the rock crusher. Mr. Maglathlin said that all material will be used on site, and that this is the fourth application of this type. They will work with the Health Department, and have the same set-up as last time.

There being no further comments or questions from Commission members or the general public, Mr. Kenny made a motion to close the public hearing. Mr. Conze seconded that motion, which was unanimously approved by the Commission, and the public hearing on this matter was then closed.

Mr. Damanti then read the next agenda item:

**Land Filling & Regrading Application #151, Tom Bow, 499 Hoyt Street.** Proposing to excavate, fill, and regrade to construct swimming pool and associated terrace and perform related site development activities. The subject property is located on the east side of Hoyt Street, approximately 100 feet south of its intersection with Leeds Lane, and is shown on Assessor's Map #3 as Lot #120, R-1/2 Zone.

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Mr. Ricardo Hernandez of Alpha Pools was present to discuss the application. He said that the proposed three foot high retaining wall will be more than 25 feet from the pool. They have received a permit from the EPC. A few trees need to be cut, and a safety pool fence will be on top of the proposed retaining wall. This may need to be slightly adjusted downward to conform with the six foot fence height zoning maximums. Mr. Bigelow asked what effect this will have on drainage. Mr. Hernandez responded that there will be no change to the existing drainage pattern.

There being no further comments or questions from Commission members or the general public, Mr. Conze made a motion to close the public hearing. Ms. Forman seconded that motion, which was unanimously approved by the Commission, and the public hearing on this matter was then closed.

At about 8:55 P.M., Mr. Damanti then read the next agenda item:

**Land Filling & Regrading Application #155, Jenny Schwartz, 8 Saddle Ridge Road.** Proposing to regrade in association with the construction of a new driveway and parking area and perform related site development activities. The subject property is located on the south side of Saddle Ridge Road, approximately 500 feet west of its intersection with Middlesex Road, and is shown on Assessor's Map #6 as Lot #155 in the R-2 Zone.

Mr. Jay Keillor of Monroe Connecticut was present to discuss the application. Mr. Damanti disclosed that he has represented the proposed builders on other matters in the past, but not on this application. There was no objection to Mr. Damanti's participation by anyone.

Mr. Keillor said that there is a need to regrade the driveway to lower it by 4 ½ feet down to a ten percent grade. They will have a retaining wall, which will be a maximum of four feet high. They will be utilizing 24 feet of galleries to accommodate the increase in runoff. There will be no impacts to neighbors. The house now has six bedrooms and is served by an on-site septic system. Mrs. Schwartz said that the Darien Health Department has approved the septic system design.

There being no further comments or questions from Commission members or the general public, the public hearing on this matter was then closed.

At about 9:05 P.M., Mr. Damanti then read the next agenda item:

**Subdivision Application #164-B, Nancy Hyland, 40 Noroton Avenue.** Proposing to subdivide the existing properties into three building lots with associated open space and perform related site development activities. The subject properties are located on the east side of Noroton Avenue approximately 150 feet north of its intersection with Clock Avenue and are shown on Assessor's Map #42 as Lots #151 and #152, in an R-1/3 Zone.

Mr. Bigelow recused himself from this application, and left the room. Mr. Damanti said that he is involved in a lawsuit on another matter with the applicant's attorney, but believes that he can hear this case fairly and has no conflict. There was no objection to Mr. Damanti's participation.

Attorney Arthur Engle of Rucci Burnham Carta Carello & Reilly was present to discuss the application. He said that they had previously applied for a four lot subdivision, which was recently

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denied by the Planning & Zoning Commission. They are now proposing a three lot subdivision. Two strips of land will be conveyed to neighbors to the south of the property. Each of those strips will be seven feet wide. The subject property is in the R-1/3 Zone, and contains an existing house and a cottage, barn and pool. There are no wetlands on the subject property. The existing house will remain on Lot #1, and at least 10% of the land will be set aside as open space.

A 15 foot buffer strip will be established around the perimeter of the property in order to protect healthy trees and to protect the neighbors. A new road, Eddy Lane, would provide access to all of the lots. The existing curb cut for the existing residence on Noroton Avenue would be removed. Drainage will be retained on-site. Mr. Engle noted the many improvements of this plan over the prior plan. They include: the elimination of one lot and a corresponding decrease in the amount of traffic. They would be adding just one more dwelling unit than was there six months ago. Other improvements are the more regular shapes of the lots; improved yard spaces, particularly for Lot #1; the road moved farther to the south to avoid the beech tree critical root zone. They will now be 23 ½ feet from the trunk. Substantial plantings have been added on the east side of the property to address the neighbors concerns. The homeowners will have an obligation to maintain living plants in the buffer/screening area. They will have to work on a replacement provision, possibly a two-year period for new plants. They will need to thin out some Norway Maple trees that now provide too much shade. The offset from Casement Street will be 150+ feet. The road is shorter, resulting in less pavement, and more landscaping and preservation. The proposed road would replace the two existing curb cuts on Noroton Avenue. They will be removing the tree at the edge of Noroton Avenue, which currently creates a safety hazard. They propose replacement plantings.

The Feb 06 Site Plan is the most recent. It adjusted the lot lines and the area to be conveyed to the neighbors. The plans also show conceptual/schematic house designs.

Professional engineer Gary Dufel, of Stearns & Wheler, LLC, described the grading, drainage, utilities and planting. The drainage will be properly managed. There will be some flows to the west and some to the east. There is now surface runoff. Street drainage will go into two sets of galleries. The existing impervious surfaces just drain to Noroton Avenue. There will be new galleries for each house and then swales towards a rain garden. There will be no flow to the south or north. They will put in a berm/mound to the south of the turnaround. It will be a four foot high berm with trees to be planted on top to minimize any headlight impacts. The slope of Eddy Lane at the intersection will be 1%. They need to excavate near Noroton Avenue, then to a maximum of 4%.

Mr. Engle explained that they need a waiver of the general provision for the 500' separation distance. The proposed road cannot comply due to the location of the parcel. He referred to the e-mail from Captain Pavia of the Darien Police Department, and noted that there were no traffic problems associated with the proposed subdivision. They are adding only one house to the whole parcel, which is not a significant increase. They will be removing the existing ½ circle driveway on Noroton Avenue, making the project safer.

Mr. Henry Ditman of Barkan & Mess confirmed that the two Noroton Avenue driveways will be eliminated and one new road constructed. There will be improved sight lines by removal of the trees to both the north and the south. This will create approximately 500' sight lines. There are no conflicts with nearby streets. The road will act like a common driveway for three houses. A street

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will be paved twenty feet wide. Mr. Spain asked about moving the sidewalk for the existing house farther to the east to avoid trucks parking near the intersection. Mr. Engle said that this is a conceptual drawing, and they could have a pull off.

Mr. Engle said that every application is judged on its own merits, but he submitted a copy of the resolution for the Bishops Gate subdivision because it too was uniquely situated. He said that relative to the proposed waiver, the road cannot impact safety, and it will not. He submitted two letters of support, and read aloud the one from Susan Cruikshank.

Mr. Chuck Andreae of 15 Clock Avenue had a question about the buffer/screening. Mr. Engle responded that the purpose of the conservation area is to preserve living vegetation and it cannot be built upon. Proposed language would clarify that existing fences would be allowed. Mr. Andreae said that he would like the existing hedge to remain.

At about 9:55 P.M., Mr. Phil Rosztoczy of 7 Clock Avenue said that he was present representing a number of neighbors. He said that he has been working with 8 or 9 neighbors and read from his submitted 11-page "Comments on the proposed subdivision of 40 Noroton Avenue". He asked whether under the Darien Zoning Regulations it is permissible to divide the property. He questioned whether it is a merged lot, and whether it can be divided. There are two proposed uses for the lot—construction of a street, and a division into three lots. Mr. Rosztoczy claimed that since the Zoning Regulations only allow one house per lot, and that there is now one lot, they can only have one house. He said that having two uses on a lot is prohibited. He said that Article I Section 100 of the Zoning Regulations states that they are to protect the character and values. Mr. Rosztoczy said that the new houses would be bigger than the surrounding houses. He said that the subdivision will create a new corner lot to the north and change the setback requirement from 10 feet to 30 feet, making the existing house non-conforming.

Mr. Rosztoczy said that according to Article IV of the Subdivision Regulations, the applicant is proposing a street within 500 feet of another street, and in this case, they are 60% short of meeting that requirement. The distance from Clock Avenue to Park Place is 600+/- feet, and another street in between would not comply. There would be 150 feet+/- from Casement Street. He said that the Assessor's Map differs from the applicant's map, and that the street is the right-of-way, not the paved portion only.

Mr. Rosztoczy continued by noting that according to Article IV F1 of the Subdivision Regulations, there is a minimum diameter of a low-volume residential street, which must be specifically requested, and the applicant has not made that specific request. He claimed that the minimum distance of a turn around from the neighbor violates the regulation six different ways. Mr. Rosztoczy believed that the planting plan is inadequate, the large trees are tall and that is there the screening is, up high. He said that there is a detention system proposed for storm water for surface water, but what about the groundwater. He said that the applicant needs to provide an environmental impact statement, and there is a need for drainage with a 50 year overflow provision. He concluded by stating that the application should be denied.

At about 10:40 P.M., Donna Sheehan of 41 Noroton Avenue spoke and said that she is concerned about safety. She is disappointed that the submitted traffic report did not specifically address safety issues. She believed that during construction, everyone is in danger. She added that the distance to

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Casement Street is 117 feet. She went to the Assessors Map, and also checked it on the ground. There is 107 feet measured from the centerline of Casement Street to the Sheehan property, and then from there to the centerline of the proposed street is another fifteen +/- feet. Thus, there is a total of 122 feet between centerlines.

Ms. Sheehan continued by noting that Noroton Avenue is a very busy two-lane arterial street that is a major connector thoroughfare. During construction (and Bishop's Gate has been under construction for four years), safety will be compromised to accommodate an increased value to an estate. She then submitted a list of high accident intersections along Noroton Avenue. She also submitted photographs of large construction equipment which may be used during the development process. Ms. Sheehan then read aloud statements from the Darien Town Plan of Development regarding traffic safety. She added that Captain Pavia of the Darien Police Department does not address safety; he only said that there were no traffic problems.

Ms. Sheehan explained that the applicant is asking for a waiver of Article IV E 7 of the subdivision Regulations, but is not just one waiver request. She said that the Bishop's Gate file was not available for review. Mr. Kenny asked how the neighbors would react if there was a large single-family residence being built on the subject property, which would not require a public hearing or review by this Commission. Ms. Sheehan responded that she would have to look into that.

Due to the late hour, a motion was made by Mr. Kenny to continue the public hearing on this matter until March 28, 2006 at 8:00 P.M. in room 206 of Town Hall. That motion was seconded by Mr. Spain, and approved by a vote of 5-0.

There being no other business, the meeting was then adjourned at 11:10 P.M.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director

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